

BEFORE THE
Federal Communications Commission

WASHINGTON, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

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In the Matter of)	
)	
Policy and Rules Concerning)	CC Docket No. 96-61
the Interstate, Interexchange)	
Marketplace)	
)	
Implementation of Section 254(g))	
of the Communications Act of 1934,)	
as amended)	

**AMERICAN PETROLEUM INSTITUTE REPLY TO COMMENTS IN OPPOSITION
AND SUPPORT OF PETITIONS FOR RECONSIDERATION**

The American Petroleum Institute ("API"), by its attorneys, respectfully submits its Reply to Comments in Opposition and Support of Petitions for Reconsideration filed in the above-styled action. API supports the Commission's decision to deregulate the interstate, domestic, interexchange services market through detariffing. API urges the Commission to extend mandatory detariffing to the international portion of bundled customer-specific arrangements.

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I. The Commission Should Extend Mandatory Detariffing To the International Portion of Bundled Customer-Specific Arrangements.

Support for the extension of mandatory detariffing to the international portion of bundled customer-specific arrangements has been nearly unanimous.¹ AT&T and customers recognize that establishing a bifurcated regulatory system for international services and interstate, domestic, interexchange services is contrary to the Commission's deregulatory objectives and is not in the public interest.²

The parties' positions on this issue can be summarized as follows:

- 1) The market forces that ensure that the domestic services provided by nondominant carriers are just and reasonable operate with sufficient effectiveness when large business customers include international offerings as a component of their individually negotiated "mixed" service arrangements with nondominant carriers;³

¹ See Comments on Petitions for Reconsideration of Capital Cities/ABC, Inc., CBS Inc., National Broadcasting Company, Inc., and Turner Broadcasting System, Inc. ("ABC, et. al"); Petition for Reconsideration and Comments on Petitions for Reconsideration of AT&T Corp.; Petition for Reconsideration and Comments on Petitions for Reconsideration of Ad Hoc Telecommunications Users Committee ("Ad Hoc"); Petition for Reconsideration of SDN Users Association, Inc.; and Petition for Reconsideration and Statement of American Petroleum Institute in Opposition and Support of Petitions for Reconsideration.

² API continues to oppose the "interim" tariffing proposals with respect to bundled international services proposed in AT&T's Petition for Reconsideration.

³ ABC, et. al Comments on Petitions for Reconsideration at 6.

2) Any problem with the pricing for the international portion of bundled service arrangements is the inflated accounting rates, not the competitiveness of the market for international services;⁴

3) Treating these two classes of service differently complicates the negotiation process, delays implementation and is unnecessarily burdensome;⁵ and

4) Extending the Commission's detariffing mandate to the international portion of mixed offerings is in the public interest because it further eliminates the possible invocation of the filed-rate doctrine.⁶

The near unanimous support on this issue speaks volumes to the merits of detariffing the international portion of mixed offerings, and proves that a separate proceeding on this issue is not warranted. Sprint's singular opposition is confined to a footnote which does not explain or provide any basis as to why API's Petition for Reconsideration should not be granted.⁷

II. THE COMMISSION SHOULD DENY U.S. WEST'S REQUEST FOR A NEW PROCEEDING TO DETERMINE THE APPLICABLE LAW.

API opposes U.S. West's contention that a new proceeding is necessary to determine which aspects of the interstate carrier transactions will be governed by state

⁴ AT&T Comments on Petitions for Reconsideration at 7.

⁵ Ad Hoc Comments on Petitions for Reconsideration and Clarification at 2.

⁶ API Statement in Opposition and Support of Petitions for Reconsideration at 3.

⁷ Comments of Sprint Corporation at footnote 1.

law and which aspects will continue to be governed exclusively by federal law.⁸ Even AT&T's Petition for Limited Reconsideration and Clarification, which U.S. West asks the Commission to grant, only seeks a clarification of this issue, not an entirely new proceeding.⁹ As did Sprint, API opposes U.S. West's request that the Commission conduct a new detariffing proceeding because 1) U.S. West seeks reconsideration of mandatory detariffing generally, and 2) a clarification of the applicability of state versus federal law would be sufficient to address interested parties' concerns.

III. THE COMMISSION SHOULD NOT REQUIRE CARRIERS TO DISCLOSE THE RATES, TERMS OR CONDITIONS OF CUSTOMER-SPECIFIC ARRANGEMENTS.

As with regard to Ad Hoc's Petition for Reconsideration, API supports Sprint's arguments against the disclosure of the rates, terms and conditions of customer-specific arrangements.¹⁰ As discussed in API's Statement in Opposition and Support of Petitions for Reconsideration, there is no reason for negotiated service arrangements to be

⁸ Comments of U.S. West at 5.

⁹ Comments of U.S. West, Inc. at 2-6; See also AT&T Corp. Petition for Limited Reconsideration and Clarification at 18.

¹⁰ Comments of Sprint Corporation at 8.

publicly disclosed.¹¹ Specifically, "there is a reasonable expectation among this group of customers that the arrangement which a given organization negotiates will satisfy its unique requirements as compared to meeting the requirements of numerous organizations."¹²

IV. THE TRANSACTION COSTS INCURRED BY TELECOMMUNICATIONS CUSTOMERS IS EXEMPLIFIED IN THE ACTIONS TAKEN BY MCI.

Various carriers have opposed the Commission's Detariffing Order on the grounds that mandatory detariffing will unreasonably subject them to undue transaction costs. The carriers have described the cost of doing business in a detariffed market as excessive and unreasonable, one carrier has even suggested that it will ultimately pass these costs on to its customers.¹³ Ad Hoc, nonetheless, has clearly and effectively exposed to the Commission the "other side of the coin." Negotiating with carriers who retain authority to modify agreements through a subsequently-filed tariff constitutes the ultimate in "transaction costs." MCI's so-called "tariffs" represent the very reason why the Commission should deregulate this segment of the

¹¹ API Statement in Opposition and Support of Petitions for Reconsideration at 10.

¹² Id.

¹³ Comments of SBC Communications Inc. at 7.

telecommunications industry and allow market forces to control.

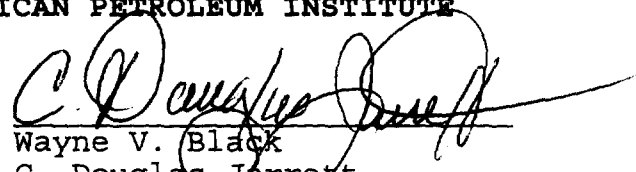
In describing their costs, large telecommunications users need only point to these types of practices as representative of the tactics they face in contracting for telecommunications services. These transaction costs are substantial and would be eliminated under the Commission's rules. No large corporate and institutional purchaser of telecommunications services should have to endure these "transaction costs."

WHEREFORE, THE PREMISES CONSIDERED, The American Petroleum Institute respectfully reiterates its request that the Commission detariff the international portion of customer-specific arrangements, and take action otherwise consistent with the views expressed herein.

Respectfully Submitted,

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Dated: February 7, 1997

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I, Carol M. Cronk, a secretary in the law office of Keller and Heckman LLP, hereby certify that on this 7th day of February, 1997, a copy of the foregoing Statement in Opposition and Support of Petitions for Reconsideration was served by first class mail, postage pre-paid, on the following:

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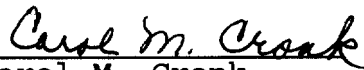
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